

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LUIZ CARLOS DA COSTA-ALVES)
 Petitioner,)
)
 v.) Civil Action No. 04-10224-
 JLT)
)
 BRUCE CHADBOURNE, Director of)
 Immigration and Customs)
 Enforcement,)
 Respondent.)

MEMORANDUM AND ORDER

Now before the Court is petitioner's petition for writ of habeas corpus. Petitioner seeks to have this Court grant his request for habeas relief and stay his removal. A Clerk of this Court contacted an attorney at the Bureau of Immigration and Customs Enforcement and confirmed that petitioner is facing imminent removal.

The First Circuit has articulated the applicable standard for evaluating requests for stays pending review of final orders of removal and stated that it is "the four-part algorithm used for preliminary injunctions." See Arevalo v. Ashcroft, 344 F. 3d 1 (1st Cir. 2003). As an initial matter, petitioner has not attached a certificate of service or document indicating any efforts that have been made to notify respondent of the filing of the petition and request for stay. Moreover, petitioner has not addressed the four-part test for preliminary injunctions. Respondent has filed a return

opposing the request for stay of deportation and arguing that petitioner has failed to demonstrate a likelihood of success on the merits of his claim. Having considered the petition and respondent's return, it is hereby ORDERED:

(1) the Clerk shall serve a copy of the habeas petition upon: (i) the Office of the United States Attorney; (ii) Frank Crowley, Department of Homeland Security, Special Assistant United States Attorney, P.O. Box 8728, JFK Station, Boston, MA 02114; AND (iii) Bruce Chadbourne, Department of Immigration and Custom Enforcement.

(2) the Respondent shall file an answer (or other responsive pleading) to the habeas petition, within seven (7) days of receipt of this Order.

SO ORDERED.

Dated at Boston, Massachusetts, this 2nd day of February 2004.

/s Joseph L. Tauro
JOSEPH L. TAURO
UNITED STATES DISTRICT JUDGE